

VERMONT TOBACCO EVALUATION & REVIEW BOARD

Minutes of the Board Meeting

November 14, 2007

Approved December 12, 2007

Members Present: Theodore Marcy, MD, Chair, Brian Flynn, ScD., Vice Chair, Amy Brewer, Edna Fairbanks Williams, Rep. Patsy French, Coleen Krauss (by phone), Gregory MacDonald, MD, Erica Peters

Designees Present: Christy Taylor Mihaly for Attorney General Sorrell, Sheri Lynn for Acting Commissioner Sharon Moffatt, Kate McNeill for Commissioner Cate, Marcia Lawrence for Commissioner Hogan

Guests: Barbara Cimaglio, Deputy Commissioner of Health, Bruce Cunningham, Eoana Sturges, Department of Health, Kelly Stoddard, American Cancer Society and Galena Magee, Central Vermont Medical Center

CALL TO ORDER: Dr. Marcy opened the meeting at 3:10 p.m.	
PUBLIC COMMENT: Mr. Cunningham provided copies of the tobacco use data from the 2007 Vermont Youth Behavior Survey (YRBS). He said there was no change in the overall youth smoking rate for grades 9-12 th and that should be of concern. The 12 th smoking rate is 25% (23% in 2005). He believes we have delayed the initiation of smoking but not prevented it. He also shared the data related to social sources of tobacco from the 2006 Youth Health Survey. 34% of students less than 18 who have obtained cigarettes in the last 30 days reported they gave money to someone else to buy cigarettes and 26% borrowed from someone else. 60% involve someone else and he believes these are minors. He believes if the Department of Liquor Control (DLC) does a better job of compliance testing, a significant portion of the social sources will be addressed. Mr. Cunningham ranked the states based on FY2006 Substance Abuse and Mental Health Administration's (SAMHSA) Synar Report. He reviewed the current law and provided an analysis and updated his cost-effectiveness analysis of Act 58 compliance. He also shared the proposal he made to the board in 2003 and draft language to change law to increase frequency of testing.	<ul style="list-style-type: none">• Bruce Cunningham
REVIEW OF MINUTES: The board approved the minutes of the October 17, 2007 board meeting.	<ul style="list-style-type: none">• Minutes approved
REPORT FROM THE CHAIR: Dr. Marcy said the National Conference on Tobacco or Health (NCTOH) was held in October. One of the sessions was a comparison of Vermont, Maine and New York cessation programs. Stan Glantz and John Pierce [well-known in the tobacco control world] attended and provided a spirited discussion. This presentation, as others, will be available on the conference website. In general, there was a great deal of discussion about disparities among mental health and substance abuse clients, particularly in changing norms/environments in hospitals and clinics. He summarized the Centers for Disease Control and Prevention (CDC) <i>Best Practices for Comprehensive Tobacco Control Programs - 2007</i> . It is available as a PDF on the CDC website. The CDC consolidated the programmatic components. There are now five: 1) state and community interventions (includes schools, coalitions, enforcement and policy changes) 2) health communication interventions	<ul style="list-style-type: none">• NCTOH meeting• CDC Best Practices

<p>3) cessation interventions (cessation resources and health care system changes) 4) surveillance and evaluation 5) administration. Vermont's disparity plan to target low income smokers and those with mental health and substance abuse issues is cited in the report. It also updated state budget recommendations based on inflation, state population and awareness of factors such as media markets, diversity, etc. He compared the board's FY09 budget recommendation to the new CDC per capita recommendations. CDC uses a range of \$11.56 - \$22.85 per capita in Vermont but recommends \$16.75 per capita (\$10.4 million). Vermont is currently spending half of that for tobacco control programs. The board's budget recommendation, developed before the new guidelines, matches up closely to CDC recommendations.</p> <p>Dr. Marcy and Ms. Ryan met with Deputy Secretary of Human Services, Patrick Flood. Mr. Flood suggested they meet with Joshua Slen, Director of Office of Vermont Health Access (OVHA), to discuss the need to address tobacco use in reducing Vermont's health care costs. This meeting is scheduled December 12.</p>	
<p>REPORT FROM DEPARTMENT OF HEALTH: YOUTH ACCESS & SYNAR: Barbara Cimaglio, Deputy Commissioner of the Department of Health, said in 1992 Congress enacted a reorganization of the alcohol, drug abuse and mental health administration. Representative Mike Synar introduced legislation to decrease youth access to tobacco and the Synar Amendment was passed. This federal law requires states to prohibit tobacco sales to minors and conduct random inspections of tobacco retailers. There are guidelines under which the inspections must be done. The amendment was attached to a substance abuse treatment block grant. Vermont receives a designated amount each year for prevention and treatment of alcohol, tobacco and other drugs use. When Synar was enacted, no funds were directed to states to implement requirements. Vermont chose the Department of Liquor Control (DLC) to implement the inspections. DOH Alcohol, Drug Abuse Prevention (ADAP) is the reporting entity and ensures the program is carried out. DLC reports results to ADAP and ADAP reports results in annual Synar report (due every December). This process, typical in most states, creates a disconnect between program area and enforcement sector. The block grant that funds ADAP is at risk if the process is not in compliance. The state would be required to allocate the percentage equal to the difference in non-compliance to drug and alcohol programs. Dr. Marcy noted that Vermont is held to two standards: federal requirement is 80% compliance and the state requires 90%. Ms. Lawrence said DLC strives to reach 90% but does fall short occasionally. Ms. Cimaglio said Vermont submitted the FY07 report in December 2006. Vermont's rate (reported as non-compliance by federal fiscal year) was 10.69%. The recently-published SAMHSA report showed FY06 data. ADAP has no resources for this particular charge. It has been trying to bring tobacco coalitions, local liquor control partners, substance abuse coalitions together to coordinate</p>	<ul style="list-style-type: none"> • Youth Access: Synar Update • Social Sources of Tobacco

messages to retailers and the community. Changing community norms includes inspections but it is also about changing attitudes and beliefs as measured through instruments like YRBS. Staff from DOH and DLC attended the annual Synar conference in August. Attendees discussed ideas to improve compliance including publishing names of retailers not in compliance, penalties, retailer education and media. Ms. Cimaglio said we may want to look at more visible strategies to increase public awareness and accountability.

There was some discussion about the size and perceived age of checkers. Ms. Lawrence said DLC is limited in its pool. Vermont uses 17-year-olds only and it is difficult to find volunteers. Ms. Cimaglio said the psychology of the retailer is an important part. For example, in a small community where everyone knows each other, the clerk may not want to offend anyone. It brings back the importance of community involvement. It's an important way to help everyone the risks of tobacco use. It's common in Vermont for clerks to check and ID and still make the sale. Ms. Mihaly said DLC publishes the names of non-compliant retailers on its website. Ms. Lynn said DOH is considering a press release template for local coalitions to publish results. Ms. Brewer said in terms of building relationships, publishing names of non-compliant stores is a negative way to do it. Ms. Lawrence said DLC provides merchants with the tools they need to comply: stickers, posters, scanners at DLC registers at liquor outlets only and the required training. Scanners are cost-prohibitive for most retailers.

A bill was passed out of the House last year to give DLC the authority to issue retailer tobacco licenses (instead of municipality) improve data base and reduce checks on retailers that no longer exist. It is in a Senate committee and hopefully will pass this year.

Dr. MacDonald wondered if we could look at best practices of other states (like Arkansas) with high compliance rates for ideas. Ms. Cimaglio said all states do it differently. When some states got hit with penalties, there were dramatic improvements and one could draw whatever conclusion one wanted. There is concern from other states about reported rates. Dr. Flynn asked how Vermont is doing compared to other states for alcohol. Ms. Cimaglio said there are more illegal alcohol sales than tobacco. He asked if there were potential gains to coordinate enforcement of both. Ms. Mihaly said the enforcement committee's work continues. She thought the committee could look at the structure of both. It's time to look at penalties again and other ideas that came out of the national meeting. She said it is clear there is work to be done; we could do better. The committee (perhaps with a consultant), could look at states like Arkansas where there has been a big improvement. Ms. Ryan pointed out that SAMHSA did not rank the states, Mr. Cunningham did. It is difficult to compare states because each does things differently to enforce the law.

<p>Ms. Lawrence addressed the age of the checker again by saying if we send in teen checkers that look older, the retailers feel like DLC is setting a trap. DLC tries to use teens that look their age. Dr. MacDonald said the point of the sting is to make sure clerks are looking at the license, not the face. Dr. Flynn pointed out that some stores check everyone's ID when purchasing alcohol. Ms. Mihaly said if a business employs best practice, it should be checking everyone for tobacco and alcohol that look younger than 30.</p> <p>Ms. Ryan said that the Enforcement Committee recommended (and the board supported) integrating educational messages across program components that teens are getting their tobacco products primarily from social sources. She handed out a summary of the roundtable discussions at the statewide partners meeting in September. Community members reinforced what we have learned from surveys; most teens are getting their cigarettes and other tobacco products from parents, friends and peers. Groups discussed ideas to address the problem of social sources. This summary will be sent to participants and used by statewide staff from each department to develop a plan. There doesn't seem to be much work in other states to address social sources. Dr. Marcy said New York and California focus on helping adults quit and changing the environment and youth will follow. Ms. Ryan said New York currently has a lower 12th grade smoking rate than Vermont.</p>	
<p>PUBLIC POLICY RECOMMENDATIONS: <i>Board term:</i> Representative French submitted a drafting request to change the statute for board term expiration from February 1 to July 1 (as recommended by the board in October).</p> <p><i>FY08 Strategic Contribution Fund:</i> If we receive \$13 million to \$13.5 in FY08 (current fiscal year) from the strategic contribution fund, the DOH will receive an increase and will use it for cessation (primarily for NRT). It may be possible that Vermont will receive more than \$13.5 million. Dr. Marcy asked if the board should recommend any additional money be placed in the Tobacco Trust Fund. There was some discussion whether the Legislature already made a statement about additional funds. Ms. Mihaly and Ms. Ryan will do further research and the board will discuss and vote on this issue in December. Rep. French said it may be that we have no control over the money; it may already be spoken for. Ms. Mihaly said a recommendation would be consistent with recommendations we have made before. Ms. Mihaly said the calculation for the total amount cannot be made until after December as it is based on number of cigarettes sold. The AG's office will probably not get an estimate until March.</p> <p><i>Workplace Law:</i> Dr. Marcy said it is disappointing where Vermont stands compared to the nation for clean indoor air legislation. We are not in the top anymore. There are exceptions in the Vermont</p>	<ul style="list-style-type: none"> • Public Policy Discussion & VOTE

Workplace Law. Ms. Ryan noted Vermont was the first state in the country to pass a strong workplace law in 1987, but it had loopholes. In addition, Vermont has another law, Clean Indoor Air Act, to cover public places (restaurants, bars, etc). The states with the strongest laws now have one statute to cover public and work places. The last time the Adult Tobacco Survey (ATS) asked the question, 8.9% of all employees employed for wages reported some smoking in their workplace. Dr. Marcy said the public health interventions that have been demonstrated to be effective are unit price of cigarette increases and comprehensive clean indoor air laws.

Ms. Ryan said, although the public places law is strong, it does not include guest rooms in hotels. Ms. Mihaly said with regard to private clubs, the AG's office is in court proceedings with the VFW. Ms. Brewer said she knows of three large employers in her area that have designated smoking areas. She believes two of the employers would like to see the exemption removed. Rep. French thinks it would be better to introduce legislation at the beginning of next year instead of this year (second year of the biennium). She thinks it would be favorably looked at, as many may not know about the exemption. Ms. Mihaly thought it might be worthwhile to integrate the two and that would take some time. The Enforcement Committee will review. Dr. Flynn said could we could have a policy position this year. It doesn't necessarily have to be tied to legislation.

Internet sales of tobacco: Ms. Mihaly said the AG's office has been concerned about tobacco purchases via the internet. It has worked with other states to ban the use of credit cards at sites that sell tobacco but consumers can purchase by electronic transfers, etc. The office has researched a complete ban on internet sales. A complete ban is better than regulating shipping by requiring delivery companies to check identification prior to delivery. A legislative draft to ban the internet purchase of tobacco products has been requested. It would address access by teens that report purchasing tobacco online. It would also address price. People can circumvent taxes by buying online. Informally, the tax department thinks it is a good idea. Local retailers are also supportive of a ban. Six other states have a complete ban. Ms. Mihaly asked for the board's support. Rep. French asked how it would be enforced. Ms. Mihaly said a company currently monitors the hits to these sites and would have to perform stings. With a ban, many of these sites respect a ban and won't sell in identified states. This year, the tax department has started to send letters to consumers to collect taxes.

Ms. Lynn said National Association of County and City Health Officials (NACCHO) and two other organizations released a policy statement to support efforts to validate age, not necessarily a complete ban. Ms. Mihaly noted in the recent Institute of Medicine's report, it recommended a complete ban as does the Campaign for Tobacco Free

Kids. Ms. Lynn will forward the NACCHO statement to Ms. Mihaly. Dr. Flynn said a complete ban solves the access as well as tax problem.

Smoke free multi-unit housing: Dr. Marcy said when he presented in June at the annual Coalition for a Tobacco Free Vermont meeting; a woman said there is a need for smoke free multi-unit housing. Ms. Ryan attended a session at the NCTOH on smoke free multi-unit housing. Some work is done on a voluntary level with landlords and developers. Others have focused on local ordinances. All have strong coalitions that work specifically on this issue (California, Maine and Minnesota). She believes that California is working toward statewide legislation but current efforts are through municipality/county initiatives. Maine and California offer tax credit to builders who provide smoke free units in their building (CA must have 50% and Maine 100% smoke free). Utah's tobacco control program provides technical support for landlords and tenants and an implementation guide. Dr. MacDonald asked where the exposure is. Secondhand smoke (SHS) exposure happens through ventilation, heating system, doors, decks, etc. Ms. Lynn said the Surgeon General said last year there is no safe level of exposure to SHS and no ventilation system can eliminate SHS particles. Dr. Flynn said there are good studies that show passive penetration through structures that appear to be closed. Dr. MacDonald thinks it might be a hard sell. He questions the public health aspect. Ms. Lynn said there is a local policy objective in the current work plan. She likes the voluntary aspect and can see coalitions working with landlords and builders to initiate smoke free policies. Ms. Brewer said there is a strong business case for managers/owners as smoke free means less clean up. She likes the idea of encouraging builders to consider smoke free communities. Dr. Marcy said these are measures that can be promulgated by coalitions without legislation. Ms. Brewer said if the board recommended this as a policy measure, it might make the coalitions' job easier. Ms. Cimaglio thought the Agency of Human Services might be able to help as it works with various coalitions on broader public health initiatives.

Dr. Marcy summarized, and the board approved, the following:

- The board will work towards recommending a model policy for a complete ban of smoking in the workplace.
- The board supports legislation to ban the sale of tobacco products through mail, internet, telephone (delivery methods).
- The board supports efforts to develop smoke free multi-unit housing residences, both existing and planned.

We will hold off on the discussion/vote on strategic contribution fund until December.

<p>Please note change in venue and time: The December 12th meeting will be held at Stanley Hall, Room 100, Waterbury complex from 3:30-5:30 p.m.</p>		
<p>ADJOURN: The meeting was adjourned at 5:03 p.m.</p>		
<p>Signed by:</p> <p>Rebecca L. Ryan, MEd Administrator</p>	<p>Approved by:</p> <p>Theodore Marcy, M.D., MPH Chair</p>	